

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

Amanda Kelly, as Parent/Guardian for Infant G.S.,  
on behalf of herself and those similarly situated,

Plaintiffs,

v.

Wal-Mart Stores, Inc.,

Defendant.

Civil Action No.: 5:18 -cv-00702  
GTS-ATB

**ORDER APPROVING SETTLEMENT AND DISPENSING WITH  
CONFORMANCE WITH NEW YORK CPLR 1207 AND 1208**

A proposed Order having come before the Court for approval of a settlement reached by the parties in this matter and dispensing with conformance with New York CPLR 1207 and 1208, the Court hereby finds:

1. Plaintiff desires to settle her complaint individually on behalf of herself and her daughter rather than pursue a class action and as such is not moving forward with a class certification motion;
2. Plaintiff's complaint alleges that the food product at issue was mislabeled and contained ingredients not listed on the packages;
3. Plaintiff's complaint alleges that plaintiff's daughter suffered an allergic reaction from the food product at issue, particularly a rash that lasted for several days;
4. Plaintiff has represented to the Court that her daughter never received medical attention and the rash gradually subsided on its own;

5. Plaintiff has represented to the Court that she incurred no medical bills or other economic loss due to the alleged rash suffered by her daughter;
6. Plaintiff has represented to the Court that as there was no medical treatment for the rash and no medical bills, there are no liens for reimbursement of medical bills paid by a third-party;
7. Subsequent to filing her Complaint, plaintiff had the food product at issue tested by a food lab at the university of Nebraska for foreign ingredients not listed on the food product package and the result of the test was inconclusive;
8. The parties engaged in arms-length settlement negotiations and reached an agreement in the amount of [REDACTED];
9. The settlement reached between the parties is fair and reasonable;
10. In a separate filing to be considered by the Court plaintiff's counsel is requesting an attorney fee in the amount of \$ [REDACTED] reimbursement of expenses incurred in the amount of \$720.00;
11. Plaintiff's portion of the settlement after the deduction of the attorney fee, \$ [REDACTED], and expenses, \$720.00, will be \$ [REDACTED].

Based on the foregoing, the Court hereby Orders:

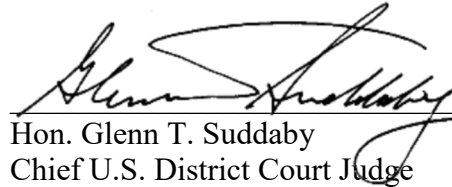
- A. The settlement reached between the parties in the amount of \$ [REDACTED] is approved;
- B. Plaintiff's portion of the settlement after the deduction of the attorney fee and expenses, \$ [REDACTED], shall be deposited into a joint interest-bearing account for plaintiff Amanda Kelly and her daughter G [REDACTED] S [REDACTED] previously opened at Citizens Bank located at 7941 Brewerton Road, Cicero, New York 13039, with account number [REDACTED];

C. The deposit shall be made with a copy of this Court Order presented to Citizens Bank;

D. The deposit shall remain in that account until G [REDACTED] S [REDACTED]'s 18<sup>th</sup> birthday unless a subsequent Court Order permits an earlier withdrawal upon good cause shown.

IT IS SO ORDERED:

Dated : April 30, 2019

  
Hon. Glenn T. Suddaby  
Chief U.S. District Court Judge